


DECLARATION

I, John Bonifaz, declare under penalty of perjury that the following statements are true and correct:

- 1) I am an attorney associated with the National Voting Rights Institute in Boston, MA. I am one of the counsel representing the plaintiffs in this litigation.
- 2) Over the past several weeks, I have worked with the plaintiffs in analyzing events in Ohio with respect to the most recent Presidential Election, preparing to take action if necessary to protect their right to vote. I have contacted the Ohio Secretary of State's representatives, spoken with other representatives of various Boards of Election in Ohio and investigated countless reports of improprieties associated with the November 2 Presidential Election. These contacts are referenced in the Complaint filed in this case. Attached are various written communications from the Secretary and other election officials.
- 3) I am aware that a statewide recount has been properly demanded but that Ohio's Secretary of State has taken steps which assure that the recount itself will be meaningless. In order for Ohio's votes to be counted in the Electoral College, the results must be final at least six days before the meeting of the College, a meeting which is to be held on December 13, 2004. But Secretary Blackwell has said he reserves the right to delay his certification of the election results until December 6, which makes it impossible for the results of the recount to be included in the tally presented to the Electoral College. Further, he has said that his certification will not be given until at least December 3, and he has said the recounts may not start until he has certified the results.



JOHN BONIFAZ

DATED: Nov. 22, 2004



November 17, 2004

J. Kenneth Blackwell
Ohio Secretary of State
180 E. Broad Street, 16th Floor
Columbus, OH 43215

Dear Secretary Blackwell:

We write you on behalf of our clients, Green Party presidential candidate David Cobb and Libertarian Party presidential candidate Michael Badnarik. Mr. Cobb and Mr. Badnarik plan to exercise their rights under Ohio law to seek a full recount of all votes cast for President of the United States in the 2004 election (Ohio Revised Code, Section 3515.02).

While Ohio law provides that an application for a recount "shall be filed within five days after the day upon which the board of elections of such county declares the results of such election," (Ohio Revised Code, Section 3515.02), Ohio law makes no reference to a recount demand filed in a presidential election. As you know, the Electoral College is scheduled to convene in the state capitol of every state on December 13, 2004, for the casting of the electors' votes for President. Your office has stated publicly that the certification of the results of the 2004 election in Ohio will occur around December 6, 2004. Assuming certification occurs on December 6 and that the recount were to begin immediately on that day in every county in Ohio, this would only allow for seven days for Ohio election officials to conduct a full recount of all of the votes cast in Ohio for President prior to the electors' meeting in Columbus on December 13.

Such a timeframe will not allow for a meaningful recount and will undermine our clients' rights under applicable law, including the Ohio recount law. Further, the lack of a meaningful recount will also violate the rights under federal and state constitutional and statutory law of all Ohio citizens who cast a ballot for President on Election Day, including the right to vote as guaranteed under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and under Article 5 of the Ohio Constitution.

We will separately file, on behalf of our clients, the necessary demands with each County Board of Elections in Ohio and will post the necessary bonds for such a recount as required by statute (Ohio Revised Code, Section 3515.03). We are sending you this letter so that you may begin making preparations for the recount. We request that you begin

NATIONAL VOTING RIGHTS INSTITUTE

27 SCHOOL STREET, STE 300 BOSTON, MA 02108 617 624 3500 FAX 617 624 3911 EMAIL nvri@nvri.org WWW.[NVRI.ORG](http://www.nvri.org)

the recount procedures as soon as you receive the necessary bonds. We further request that you immediately initiate appropriate procedures to start the recount. We wish to meet with you immediately in person or by phone to discuss the prompt initiation of the recount in every county in Ohio prior to the certification of the election results and the prompt initiation of related procedures and disclosures necessary for a meaningful recount.

Our clients have publicly called for your recusal with respect to the recount, which we believe is appropriate under the current circumstances. We, therefore, ask that you forward this letter to the appropriate official in your office who will be supervising matters related to the recount.

We request a response to this letter via email, phone, or fax by noon, Friday, November 19, 2004. Please direct your office's response to John Bonifaz, co-counsel for Mr. Cobb and Mr. Badnarik. Please include in your office's response whether you will commence the recount procedures in advance of the certification, upon receipt of the bonds at the county boards of elections. Thank you for your prompt attention to this matter

Sincerely,



John C. Bonifaz
General Counsel
National Voting Rights Institute
27 School Street, Suite 500
Boston, Massachusetts 02108
(617) 624-3900, ext. 22
(617) 624-3911 (fax)
jbbonifaz@nvri.org



Nancy Holland Myers
Holland Myers & Myers
159 South Main Street
815 Key Building
Akron, Ohio 44308
(330) 535-1202



J. Kenneth Blackwell
J. KENNETH BLACKWELL
Ohio Secretary of State

100 E. BROAD STREET / 16TH FLOOR / COLUMBUS, OH 43215
614.466.2665 / TOLL FREE: 877.757.6446 / FAX: 614.644.0648
e-mail: blackwell@sos.state.oh.us www.state.oh.us/sos/

November 19, 2004

John C. Bonifaz
General Counsel
National Voting Rights Institute
27 School Street, Suite 500
Boston, Massachusetts 02108

VIA FACSIMILE AND U.S. MAIL

Dear Mr. Bonifaz,

Thank you for your letter of November 17, 2004. Since your letter's assertion that "Ohio law makes no reference to a recount demand filed in a presidential election" reflects a certain lack of familiarity with Ohio's election certification process, it may be helpful to review the process.

As you know, we do not vote directly for the candidates for president and vice-president. Rather, pursuant to R.C. 3505.10, votes cast next to the names of the candidates for president and vice-president are counted as votes for each of the candidates for presidential elector whose names have been certified to the Secretary of State by the respective candidates for president and vice-president. Since each candidate for presidential elector is a "candidacy for election [that] was submitted to electors throughout the entire state", R.C. 3515.02's recount procedure applies directly to persons seeking a recount regarding the votes cast in Ohio in the presidential race. Thus, under R.C. 3515.02, any application for a recount in Ohio's presidential race "shall be filed within five days after the day upon which the secretary of state declares the results of such election".

The Secretary of State's canvassing of the results from the various counties and his declaration of the results is the initial "count". Plainly, there can be no recount until there has been an initial count. One cannot "immediately initiate" a recount, until the initial count is completed. The Secretary of State will declare the results as soon as he is able to do so. However, before the Secretary of State can lawfully declare the results of the presidential election, Ohio law requires each county board of elections to (1) canvass the results (2) sign and post a declaration of the results, (3) certify abstracts of the results and (4) send the certified abstracts to the Secretary of State.

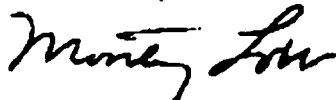
Under R.C. 3505.32, each of Ohio's 88 boards of elections must begin to canvass the election returns no earlier than November 13, 2004, and no later than November 17, 2004. The canvassing is to continue daily until it is completed. When each board of elections has completed the canvass of the election returns from the precincts in its county, the board must meet, determine and declare the results. Pursuant to R.C. 3505.33, "[s]uch declaration shall be in writing and shall be signed by at least a majority of the members of the board". The declaration of results shall be "posted for a period of at least five days". After this statutory five day period of posting the results, "the board shall promptly certify abstracts of the results". R.C. 3505.33 requires, *inter alia*, that the boards certify upon a specified form "[a]n abstract of the votes cast for the office of president and vice-president of the United States". After each board so certifies, "[o]ne copy of each of these forms shall promptly be sent to the secretary of state".

The Secretary of State has requested each of Ohio's 88 counties to provide to him the certified abstracts by no later than December 1, 2004. This deadline is significantly shorter than the usual deadlines in non-presidential years. Once the Secretary of State has received abstracts from all 88 counties, R.C. 3505.35 requires the Secretary of State to canvass the abstracts and to "determine and declare the results of all elections in which electors throughout the entire state voted". R.C. 3505.35 requires the Secretary of State to fix the time for canvassing the abstracts within ten days after all 88 counties have provided the abstracts to him. R.C. 3505.35 also requires the Secretary of State to give advance notice of such meeting to "the governor, auditor of state, attorney general, and the chairman of the state central committee of each political party".

The Secretary of State does not intend to wait ten days from the receipt of all 88 certified abstracts before determining and declaring the results of the statewide races. To the contrary, the Secretary of State intends to declare the statewide results as quickly as it is feasible for him to do, consistent with his duties to comply with federal and state law. If it proves to be feasible to determine and declare these results even before December 6, 2004, the Secretary of State will endeavor to do this, provided that the accuracy and integrity of the process is not sacrificed.

In short, the timing and procedures to conduct the official "count" are governed by statute and are being followed with such promptness as Ohio law allows, and, indeed, with even greater promptness than is legally mandated. I hope this letter answers the questions that you have raised.

Sincerely,



Monty Lobb
Assistant Secretary of State

Summit County Board of Elections

470 Grant Street - Akron, Ohio 44311-1157
(330)-843-8200 - Fax (330)-843-1422
www.summitcountybee.com

Members:

Wayne Jones
Russell M. Pry
Democrats

Alex R. Arshinkoff
Joseph P. Hutchinson, Jr.
Republicans

Wayne Jones
Chairman

Bryan C. Williams
Director
John N. Schmidt
Deputy Director

November 18, 2004

John C. Bonifaz
27 School Street, Suite 500
Boston, MA 02108

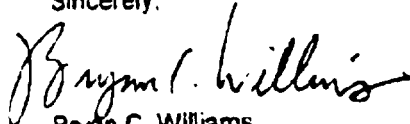
Nancy Holland
159 S. Main St.
815 Key Building
Akron, OH 44308

Dear Attorneys.

The Summit County Board of Elections is scheduled to certify the November 2004 election results at a public meeting on Tuesday November 30, 2004.

All recounts will be conducted in accordance with Ohio law and the direction of the Ohio Secretary of State.

Sincerely,



Bryan C. Williams
Director

Cc John N. Schmidt, Deputy Director
Sandy Rubino, Assistant County Prosecutor

THOMAS L. SARTINI
PROSECUTING ATTORNEY
ASHTABULA COUNTY COURTHOUSE
23 WEST JEFFERSON STREET
JEFFERSON, OHIO 44047-1092

ARLENE E. TARCHETTI
CHIEF ASSISTANT

TEAN L. BURKOWY
CATHY ELINE R. COUGAN
NORA M. D. BUDRO
KATRECCA K. DINDY
ROBERT L. BURMAN
DREYDA K. KANDERSKI
JODI A. MITCHEL
ANGELA M. SCOTT
PATRICIA J. SMITH
ISAAC L. SPEIGHT, JR.
YANALISA WETTERHOLT

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(440) 576-3608 (CIVIL/APPELLATE)

TELETYPE
(440) 576-3734

VICTIMS/WITNESS ASSISTANCE
CYNTHIA YAKALLER
(440) 576-3223
DENISE ELLIOTT
(440) 576-3523

November 19, 2004

John C. Bonifaz
General Counsel
National Voting Rights Institute
27 School Street, Suite 500
Boston, Massachusetts 02108

VIA FAX AND REGULAR MAIL

RE: Recount of 2004 Presidential Election,
Ashtabula County, Ohio

Dear Mr. Bonifaz,

Your letters and enclosures dated November 17 and 18, 2004 to the Ashtabula County, Ohio Board of Elections have been referred to this office for review and response.

It is my opinion that your interpretation of Ohio Revised Code §3515.02 is incorrect. A specific time frame for recount applications for elections submitted to the electors throughout the entire state is provided for, i.e. "within five days after the day upon which the Secretary of State declares the results of such elections."

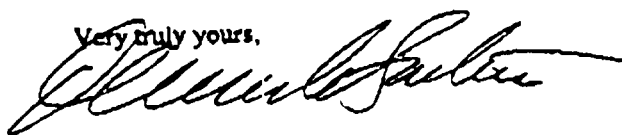
Accordingly, your application for a recount is premature and on behalf of the Ashtabula County Board of Elections, I am returning to you the check in the amount of \$1,270.00 which was enclosed with your letter of November 11, 2004.

Assuming that the Secretary of State certifies the results of the Presidential Election on December 6, 2004, as has been indicated, and upon the receipt by the Ashtabula County Board of Elections of a proper request for a recount consistent with the requirements of the Ohio Revised code, every attempt will be made to provide the recount in as timely manner as possible.

Incidentally, your correspondence of November 18, 2004 included a list of the precincts of "Ashland County" and not "Ashtabula County".

Thank you for your attention.

Very truly yours,



THOMAS L. SARTINI
PROSECUTING ATTORNEY

TLS/dh
cc J. Richard Hornstein

John Bonifaz (NVRI)

From: Adams County BOE [adams@sos.state.oh.us]
Sent: Friday, November 19, 2004 10:18 AM
To: jbonifaz@nvn.org
Subject: Recount Procedure for Adams County

Dear Mr. Bonifaz:

Please be advised that we are in receipt of your letter dated November 17, 2004, concerning a recount of the General Election.

We will not be proceeding with the recount until directed to do so by the Secretary of State regardless of when we receive the bond money.

If you should have any questions, please feel free to contact our office.

Thank you.

Stephanie and Mary

John Bonifaz (NVRI)

From: Betts, Christopher [CBetts@co.delaware.oh.us]
Sent: Friday, November 19, 2004 10:38 AM
To: 'jbonifaz@nvri.org'
Cc: Yost, David, Brenneman, Janet
Subject: Delaware County, Ohio - Request for Recount

Dear Mr. Bonifaz:

The Delaware County Board of Elections is in receipt of your letter dated November 17, 2004 requesting a recount of votes cast for President of the United States in the 2004 election. Please consider this email your requested response to that letter.

At this time (November 19, 2004), the Delaware County Board of Elections ("Board") has not certified the results of the November 2, 2004 election. In terms of performing a recount, the Board will follow both the provisions of Ohio Revised Code Section 3515.02 and the advice of the Ohio Secretary of State and as such will not perform a recount until the Ohio Secretary of State has certified the results of the election.

Sincerely,
Christopher D. Betts
Assistant Prosecuting Attorney
140 North Sandusky St., 3rd Floor
Delaware, Ohio 43015
(740) 833-2690 / fax (740) 833-2689

Janet Brenneman
Director
Delaware County Board of Elections
140 North Sandusky St., Ground Floor
Delaware, Ohio 43015
(740) 833-2080

Kim Spangler
Deputy Director
Delaware County Board of Elections
140 North Sandusky St., Ground Floor
Delaware, Ohio 43015
(740) 833-2080

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11/19/04

John Bonifaz (NVRI)

From: Fayette County BOE [fayette@sos.state.oh.us]
Sent: Friday, November 19, 2004 11:33 AM
To: jbonifaz@nvri.org
Subject: recount


In response to your letter of November 17th we will not be commencing the recount in advance of the State Certification.

Fayette County
Pattiann Zinn, Director

5. I believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be meaningless for the 2004 presidential election and will undermine my right to vote and the right of all Ohio citizens to vote.
6. If a full recount of the votes cast in Ohio for the 2004 presidential election is not conducted in a timely manner, as a voter, I will suffer irreparable harm since my vote and that of other eligible voters may have been cast but not counted towards the outcome of the election. The failure to properly count my vote in a presidential election is no less irreparably harmful to me than the denial of my right to cast a vote. I also will suffer irreparable harm if the votes of others are counted more than once and a recount is not completed to correct for such errors. I speak of irreparable harm not only for myself but all citizens of the United States who are eligible to vote in Ohio and who voted in the 2004 presidential election.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22 day of November, 2004.


Anita Rios

Declaration of David Cobb

I, David Cobb, declare as follows:

1. I was the Green Party candidate for President of the United States in the November 2, 2004 election. As a write-in candidate for President in Ohio, I received multiple votes from Ohio voters in the 2004 election.

2. I want, have requested, and have paid the necessary sum for, a recount in Ohio of the votes for President of the United States. As a candidate, I am entitled by law to request a recount. I want this recount to determine that the vote of every U.S. citizen eligible to vote in Ohio is in fact counted. In this regard, I am aware and troubled by the failure of Ohio to count the vote cast by Timothy J. Kettler in Ohio for me for president.

3. By letters dated November 18, 2004, and as a candidate for elected office, I applied to the Ohio Secretary of State, and his subordinate Boards of Election, and paid the requisite fee, for an immediate recount of votes for president to ensure that the recount is completed in time for the presidential electors chosen by the Ohio voters to conclusively cast their vote in the Electoral College. To be assured of this, the Ohio recount needs to be completed by December 7th.

4. By letter dated November 18, 2004, the Ohio Secretary of State refused my application for a immediate recount and instead insists upon his chosen schedule to delay a recount so as to make it meaningless for the 2004 election. Those Boards of Election that have responded to my application have represented that they will not advance the recount without direction from the Secretary of State. Under the Secretary of State's schedule, he said that he might not start the recount until December 6 and I am concerned that he would end the recount the next day December 7th before it is or could

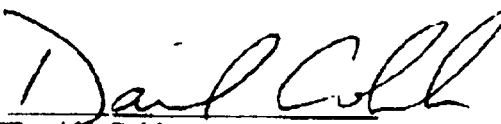
be completed. At best, under his announced schedule the recount would not start until December 3, 2004, which provides an unreasonably short time period (four days, December 3-7, 2004) to complete a recount of more than 5 million votes in 88 counties that employ different method of voting.

5. A recount is only meaningful for the 2004 election if it is completed in time for the votes there determined to be the votes used to chose the presidential electors who vote for Ohio in the Electoral College vote to occur on December 13, 2004.

6. I will suffer irreparable harm unless the recount that I seek, and to which I am entitled as a candidate for the President of the United States, is completed and used to determine the presidential electors from Ohio to vote in the Electoral College for the 2004 presidential election.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22nd day of November, 2004.


David Cobb

Declaration of Jack L. Noragon

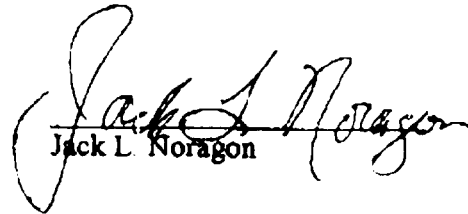
I, Jack L. Noragon, declare as follows:

1. I am the Chair of the Board of Common Cause/Ohio. I have served in that capacity for more than 15 consecutive years.
2. Common Cause/Ohio is a non-profit non-partisan organization with offices at 50 West Broad Street, #1750 in Columbus, Ohio. We are the state affiliate for the national organization Common Cause. We have approximately 2800 members throughout the state of Ohio, many of whom cast a vote in Ohio in the 2004 presidential election.
3. We are committed to open, honest, and accountable government and to protecting the integrity of our election process. Toward that end, we are engaged in promoting greater citizen participation in the political process and we devote significant time to registering voters. We registered many voters to participate in the 2004 presidential election in Ohio.
4. Common Cause/Ohio is deeply concerned that every Ohio citizen's vote be properly counted. We are not confident that Ohio has counted all the votes cast in the state for President and we want a full recount. We believe a full recount of all the votes cast in Ohio for President is necessary to help ensure a proper counting of the votes.
5. We believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be

meaningless for the 2004 presidential election and will undermine the right of our member voters and of all Ohio citizens to vote.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22nd day of November, 2004.


Jack L. Noragon

Declaration of Timothy J. Kettler

I, Timothy J. Kettler, declare as follows:

1. I am a registered and qualified voter in Warsaw, Ohio, in Coshocton County, and reside at 29674 Township Road 30, Warsaw, Ohio.
2. In the 2004 general election, I cast my vote for President of the United States in the appropriate precinct in my county. I cast a write-in vote for presidential candidate David Cobb using a ballot required for an optical scan machine.
3. I have not been able to ascertain with any sense of finality that my vote has been counted. On November 3, 2004, the day after Election Day, I looked for my vote in my local newspaper which had published the results of the presidential election. The newspaper listed that no votes were recorded in my county for David Cobb.
4. I subsequently checked the website for the Ohio Secretary of State's Office which did not list any recorded votes for David Cobb in Coshocton County.
5. Upon reviewing this website, I then emailed the Coshocton County Board of Elections. On November 4, I received an email response from the Board of Elections stating that all write-in votes were sent to the Ohio Secretary of State's Office. I then received a second email response stating that there had been one vote in the county for David Cobb.
6. During the week of November 16, 2004, the Coshocton County Board of Elections published a final tally of the votes cast for President in that county. The tally did not list any recorded votes for David Cobb. It did list that write-in votes were recorded for a local sheriff election.

7. I am deeply concerned that my vote and every Ohio citizen's vote be properly counted. I have serious doubts that Ohio election officials are producing a verifiable count of all of the votes cast in Ohio for President. I believe a full recount of all the votes cast in Ohio for President is necessary to help ensure a proper counting of the votes.
8. I believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be meaningless for the 2004 presidential election and will undermine my right to vote and the right of all Ohio citizens to vote.
9. It has come to my attention that according to election results published by The Coshocton Tribune at their website, and updated November 18, 2004, there was one vote recorded in Coshocton County for David Cobb. This vote has not been reflected at The Ohio Secretary of State's website. I feel that this has only added to the confusion surrounding the vote count throughout the state.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22 day of November, 2004.


Timothy J. Kettler

Declaration of Victoria Lovegren

I, Victoria Lovegren, declare as follows:

1. I am a registered and qualified voter in Cleveland Heights, Ohio, and reside at 2226 Bellfield Avenue, Cleveland Heights, Ohio.
2. I have voted in every federal election in my life since I became eligible.
3. In the 2004 general election, I cast my vote for President of the United States with an absentee ballot.
4. I am deeply concerned that my vote and every Ohio citizen's vote be properly counted. I am not confident that Ohio has counted all the votes cast in the state for President and I want a full recount. I believe a full recount of all the votes cast in Ohio for President is necessary to help ensure a proper counting of the votes.
5. I believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be meaningless for the 2004 presidential election and will undermine my right to vote and the right of all Ohio citizens to vote.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22nd day of November, 2004.


Victoria Lovegren

Declaration of Phillip F. Fry, Jr.

I, Philip F. Fry, Jr., declare as follows:

1. I am a registered and qualified voter in Champaign county, Ohio, and reside at 5370 North Elm Tree Road, a Conover Post Office.
2. In the 2004 general election, I cast my vote for President of the United States with an absentee ballot.
3. I am deeply concerned that my vote and every Ohio citizen's vote be properly counted. I am not confident that Ohio has counted all the votes cast in the state for President and I want a full recount. I believe a full recount of all the votes cast in Ohio for President is necessary to help ensure a proper counting of the votes.
4. I believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be meaningless for the 2004 presidential election and will undermine my right to vote and the right of all Ohio citizens to vote.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22 day of November, 2004.


Philip F. Fry, Jr.

Declaration of Daryl Davis


I, Daryl Davis, declare as follows:

1. I am a registered and qualified voter in Cleveland, Ohio, and reside at 3830 West 44th Street, Cleveland, Ohio.
2. I have voted in every federal election in my life since I became eligible.
3. In the 2004 general election, I cast my vote for President of the United States on Election Day with a punchcard ballot.
4. I have worked to register voters all of my life. When I register new voters, I tell them that voting is like getting your first paycheck. I tell them that when they vote, they have a stake in the political process.
5. I have serious doubts that all of the votes cast in Ohio for President in the 2004 election are being properly counted. I believe a full recount of all the votes cast in Ohio for President is necessary to help ensure a proper counting of the votes. A full recount is also necessary to help maintain the people's trust that we live in a democracy.
6. I believe a full recount must be completed in a timely manner prior to the selection of the presidential electors representing Ohio in the Electoral College. If such a recount is not completed in a timely manner, it will be

meaningless for the 2004 presidential election and will undermine my right to vote and the right of all Ohio citizens to vote.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22 day of November, 2004.



Daryl Davis

Declaration of Michael Badnarik

I, Michael Badnarik, declare as follows:

1. I was the Libertarian Party candidate for President of the United States in the November 2, 2004 election. As a candidate for President on the official Ohio state ballot, I received multiple votes from Ohio voters in the 2004 election.

2. As a candidate, I am entitled by law to request a recount. I have requested, and have paid the necessary sum for, a recount in Ohio of the votes for President of the United States. This recount is essential to ensure that the vote of every U.S. citizen eligible to vote in Ohio is in fact counted towards the 2004 presidential election.

3. Through counsel, I have applied, as candidate for elected office, for a recount of all votes statewide made for President of the United States. I have caused to be paid the requisite fee and required that recount of votes for president be done in each county as soon as that county completes its initial count. This is necessary to ensure that the recount is completed in time for the presidential electors chosen by the Ohio voters to conclusively cast their vote in the Electoral College. To be assured of this, the Ohio recount needs to be completed by December 7th.

4. By letter dated November 18, 2004, the Ohio Secretary of State refused my application for an immediate recount and instead insists upon his chosen schedule to delay a recount so as to make the recount meaningless for the 2004 election. Those Boards of Election that have responded to my application have represented that they will not advance the recount without direction from the Secretary of State. The schedule set by the Secretary of State to start the recount wastes virtually all of the time available by

law for the recount to be completed for use in the determination of electors from Ohio for the 2004 Presidential election.

5. A recount is only meaningful for the 2004 election if it is completed in time for the votes there determined to be the votes used to chose the presidential electors who vote for Ohio in the Electoral College vote to occur on December 13, 2004.

6. My right to a recount for the 2004 presidential election will be lost unless the recount is used to determine the presidential electors from Ohio for 2004. As a candidate for President of the United States, I will suffer irreparable harm unless the Ohio recount that I request and, to which I am entitled, is properly and completely performed in time for the presidential electors rightfully chosen by the citizens of Ohio to vote in the Electoral College.

I declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information and belief.

This 22nd day of November, 2004.


Michael Badnarik